IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 18874 of 2005

Between:

A. Peddanna S/o. Pedanna
R/o. Ramapuram Village, Kanaganapalli Mandal Ananthapur District.

..... PETITIONER

AND

1. The Joint Collector, Ananthapur.
2 The Revenue Divisional Officer
Dharmavaram Ananthapur District.
3 Khandeswari W/o. Late Ramanna
Ramapuram Village, Kanaganapalli Mandal Ananthapur

District.

...RESPONDENTS

ORDER:

The third respondent's authorization as the fair price shop dealer of Ramapuram Village, Kanaganapalli Mandal, Ananthapur District was suspended pending enquiry into certain charges listed therein, by the order of the second respondent dated 25.06.2005 while calling upon the said respondent to submit her explanation to the charges, for conduct of a regular enquiry.

Aggrieved by the order, the third respondent preferred an appeal to the first respondent. The first respondent by the impugned order, dated 08.08.2005 stayed the order of the second respondent, dated 25.06.2005 and directed the second respondent to conclude the substantive enquiry into the allegations against the third respondent expeditiously. The last sentence in the first respondent's order no doubt records that the case is remanded to the Revenue Divisional Officer (second respondent) for speedy hearing and final disposal. This would permit the inference that the appeal of the third respondent was disposed of by interdicting the suspension pending enquiry order passed by the second respondent and directing the second respondent to expeditiously conclude the substantive enquiry into the allegations against the third respondent. The petitioner claims to be one of the complainants whose complaint has led to the initiation of enquiry and suspension of authorization of the third respondent.

The petitioner is aggrieved by the stay granted by the first respondent of the order of suspension of the third respondent's authorization. For contending that the discretion exercised by the first respondent in staying the suspension of the third respondent is illegal and perverse, the petitioner relies on a decision of a Division Bench of this Court in **B.MAHESWARAMMA v Smt M.RAMASUBAMMA AND OTHERS** wherein this Court opined that normally the Court should not interfere with and grant an interim order for enabling a person who has been subjected to a disciplinary action for wrong doing to function in the position from which he was eased out even temporarily. This Court held:

> "A person who has been subjected to a disciplinary action for a wrong doing, should not be allowed to function under an interim order of the Court. In all such cases it is not the interest of the party alone but the public interest which is of utmost importance. A person who is a Dealer of a fair price shop in essential commodities, is one whose conduct affects a large body of the consumers. The court before the final adjudication, shall refrain and not grant any interim order in his/her favour. When we make the above order, however, we are clear in our mind that the authority concerned should not unreasonably delay the disposal of the proceedings and any unreasonable delay in disposal of the enquiry by the Revenue Divisional Officer, may give rise to the suspicion that the petitioner-respondent has been wronged by some motivated order against her. It is necessary for the said reason to reiterate before we conclude that the Revenue Divisional Officer must abide by the time schedule and pass final orders strictly in accordance with law within the time indicated above."

This decision in the considered view of this Court does not circumscribe the discretion of an appellate authority in the hierarchy of quasi judicial remedies available against a Revenue Divisional Officer's order placing a fair price shop dealer's authorization is suspension pending enquiry. In exercising the discretion, the Joint Collector, who also has considerable administrative knowledge of the conditions operating within his jurisdiction must be presumed to be aware of the docket load of the Revenue Divisional Officer as would disable him from conducting expeditious regular enquiry into the allegations against fair price shop dealer which have led to the suspension or cancellation of an authorization.

In the case on hand, one of the allegations against the third respondent is that

she was not residing in the village and was running the shop benami. Her explanation before the appellate authority-first respondent was that she was not running the shop benami, but her half brother was assisting her in running the shop. This explanation, *prima facie*, might have weighed the first respondent for granting the stay.

Learned counsel for the petitioner contended that not staying in the village is a contravention of an applicable G.O. It is not every contravention that should result in a cancellation or suspension of authorization. The disciplinary authority should have due regard to the proportionalty of the punishment having regard to the gravity of the misconduct, alleged and found. Every trivial deviation from the guidelines does not justify the sanction of an extreme penalty. All these are matters within the spectrum of discretion of the first respondent as an appellate authority and this Court finds no perversity in the order of the first respondent. There are no merits.

Accordingly, the writ petition is dismissed. No costs

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25-08-2005

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